

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

**BOSTON GAS COMPANY d/b/a KEYSPAN ENERGY
DELIVERY NEW ENGLAND**

D.T.E. 03-40

**ATTORNEY GENERAL'S OPPOSITION TO THE COMPANY'S MOTION FOR
CLARIFICATION OR, IN THE ALTERNATIVE, FOR RECONSIDERATION**

I. INTRODUCTION

Boston Gas Company d/b/a/ KeySpan Energy Delivery New England ("KeySpan" or "Company") filed, pursuant to 220 C.M.R. §§ 1.11 (10) and (11), a Motion for Clarification or, in the alternative, a Motion for Reconsideration (the "Motion") of certain parts of the Department's October 31, 2003 Order ("Order"). The Department should deny the Company's motion because the Company did not demonstrate extraordinary circumstances necessitating a fresh look at this issue, or show that the Order is silent on a necessary issue. Contrary to the Company's assertion that the Department has already determined that the Post-retirement Benefits Other than Pensions ("PBOPs") balances and associated carrying charges will not be subject to recovery through the three-year amortization provisions of the Pension / PBOP Reconciliation Adjustment Clause.

II. ARGUMENT

A. Pensions And PBOPs

The Company claims that the Department's Order is silent on the mechanism to recover annual PBOP deferrals and the carrying charges on those deferred PBOP balances. Motion, p. 1. The Company seeks clarification that the Department intends that deferred PBOP balances and carrying charges accrued on those balances will be subject to recovery through the three-year amortization provisions of the Pension / PBOP Reconciliation Adjustment Clause. Motion, p. 4.

The Company's claim is erroneous -- the Department's Order is not "silent on the mechanism that will be used to recover annual PBOP deferrals as well as the carrying charges on deferred PBOP balances." The Department's language and its intent regarding the PBOPs expense are unambiguous:

The Company's PBOP expense treatment has a history that we see no reason to depart from at this time. Thus, even though in D.T.E. 03-47, at 30-33, we included PBOP in a reconciling mechanism, there is no presently compelling reason to do so here for this petitioner. In any event, as discussed in this Order, the financial effect is the same in both cases.

Order, p. 309, n. 130. The Department makes plain that it is not going to depart from its base rate treatment of KeySpan's PBOPs expense, and, therefore, denies the Company's request to move the costs and the reconciliation to the Company's new reconciliation adjustment clause. The Department expressly distinguishes KeySpan base rate treatment from the NSTAR case in D.T.E. 03-47, where it allowed treatment of these costs through a reconciliation adjustment clause.

To support its position, the Company argues that the transfer of the PBOP reconciliation from base rates to the pension reconciliation adjustment factor ("PRAF") is necessary to secure

the approval of the deferral as a regulatory asset under the requirements of Financial Accounting Standard (“FAS”) 71 from the Company’s auditors. Motion, p. 7. Boston Gas further claims that, in order to maintain those PBOP deferrals as a regulatory asset under FAS 71, the Company must have a recovery mechanism in place that allows for recovery of deferred balances in a reasonable time frame. Motion, p. 8. In its Order, the Department specifically addressed the fact that the deferral of the transition obligation, without carrying charges, will not cause the Company to write off the regulatory asset. Contrary to all of the Company’s claims of accounting write-offs, the Department recognized that the Company has carried on its books over the last ten years, and will continue to carry on its books for the next ten years, a regulatory asset that is being deferred and recovered through rates without carrying charges. Thus, the Department’s Order is clear that the recovery of the PBOPs expenses should remain in base rates without recovery of *any* carrying charges on any deferred balances, and that it expects no write-off because there has been no write-off of the deferred balances in the past.

III. CONCLUSION

For all of these reasons, the Department should deny the Company's Motion for Clarification or, in the alternative, Motion for Reconsideration.

Respectfully Submitted,

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